

Criminal Justice System items to note

Meeting on 16.1.24

1. Statistics

1.1 **Offender Management Statistics** to the end of June (September for prison population)

Some significant changes are noted:

- *Prison population* This increased by 8% to 87,576 prisoners, a contributory factor being those on remand - those 'untried' increased by 8% and the 'convicted unsentenced' population increased by 18%. The number of first receptions into prison rose by 9%. The remand prison population on 30 September 2023 was 16,196, the highest on record
- Those released from prison was 6% higher than the comparable period last year
- *Recalls* Those recalled to prison increased by 15% (a record high)
- *Adjudications* increased by 28% with additional days awarded on 1000 occasions (up 56%)
- *Release on Temporary Licence* increased 6% but is still down on pre-COVID levels
- *Probation* numbers decreased by 2% to 238,264. The caseload balance continues to change with a drop in the numbers on court orders (by 5%) but pre/post release increased by 1%. More use was made of mental health treatment requirements; and PSRs decreased by 4%

1.2 **Safety in Custody statistics** (MoJ quarterly bulletin)

These statistics are published quarterly and swiftly after the period they cover so they are one of the most reliable barometers of prison conditions. The latest edition makes for grim reading:

Deaths in custody September 2022/3, there were 304 deaths, 92 were self-inflicted

Self-harm There were 64,348 self-harm incidents from June 2022-23 (a 65% increase in female establishments), demonstrating that there are many severely troubled and vulnerable people in our prisons who would be much more appropriately cared for within a mental health setting

Assaults 23,557 assaults, up 9% from June 2022. The rate of assaults on staff has also worsened (7,908), as has the rate of serious assaults (up by a very considerable 16%)

1.3 **MoJ annual report and accounts for 2022/23**

Performance There was no mention of the ongoing crises in prisons (violence, self-harm & understaffing), probation (under-staffing) and court (intransigent backlogs) systems.

Finances The Department had just over £11 billion in net cash in the financial year. Staff costs were by far the biggest item of expenditure (£3bn on HMPPS, £1.2bn on Courts & Tribunals, and £650m on MoJ HQ (employs 7,093 people). There seems unlikely to be any new money to address the ongoing (and worsening) problems in the CJS

Drug Testing Random MDTs have not yet returned "to the levels required for reliable national or establishment-level estimates" and data is inaccurate

Recruitment 63 Neurodiversity Support Leads have been appointed to identify and support neurodivergent prisoners in accessing education and work opportunities within prison, with a further 60 to be recruited in 2023-24.

1.4 **Criminal Court statistics to the 30th June 2023**

The Government has made little progress in reducing the court backlogs since the end of the pandemic but Crown Court backlogs had been reducing very slowly since last September. That figure reversed markedly from April-June, with the outstanding caseload increasing by 4% to 64,709.

Crown Courts

Following the initial phased reintroduction of jury trials after the initial lockdowns, disposals gradually increased, other than during the Criminal Bar Association industrial action. There were 26,403 case receipts into the Crown Court in Q2 2023, up 6%. There were 64,709 outstanding cases at the end of June 2023, up 4% (the highest level of outstanding cases ever recorded)

Magistrates' Courts

The outstanding caseload increased as disposals volumes fell below case receipts. Receipts increased by 14% and disposals increased by 7%. At the end of June 2023 there were 345,285 outstanding cases at the magistrates' courts, a 2% increase on the previous quarter

2. CJS agencies

2.1 Police

2.1.1 Rape case specialists

1 in 8 posts for police officers specialising in rape and serious sexual offences remain unfilled. The gaps in staffing come amid continuing concern over prosecution and conviction rates. There were 70,633 rapes recorded by police in 2022 but only 459 convictions. A FOI request to police forces showed a variation between 0-2in5 unfilled posts. In May, a coroner at the inquest into the death of a woman who fell off a bridge 4 months after reporting a rape expressed concern that 40 detectives were working on 600 cases, while there were 22 vacancies. The Home Office has recently rolled out Operation Soteria, which pushes police and prosecutors to focus investigations on suspects rather than complainants' credibility. However, it has been criticised for the lack of specialist understanding among officers. The CEO of Rape Crisis said a "critical time" had been reached in how these offences are investigated and prosecuted. "With the recent launch of the national operating model from Operation Soteria, it is crucial that a victim-centred, suspect-focused and context-led practice is now embedded across all police forces, but as a minimum, for this to embed effectively there needs to be a sufficient amount of specialist officers in post. The reform urgently needed is not possible if those resources are not there."

2.1.2 Operation Safeguard

Some police forces have been paid hundreds of thousands of pounds to house prisoners in their cells, even though no prisoner has yet been sent, an investigation has found. Last November the Government triggered Operation Safeguard, last used 15 years ago under a Labour government, permits prisoners to be put up in police cells when local jails are full. MoJ data shows the number and cost of prisoners accommodated by various police forces. Between February and June, police cells were used to house prisoners on 871 occasions, mostly in the north of England. However, the figures also showed that the Government paid Essex police £219,003, Avon and Somerset police more than £250,000, and South Wales police £690,639 to provide cells, but none were sent any prisoners. The MoJ said that Operation Safeguard "has enabled us to deal with... exceptional capacity pressures". It says it is delivering "the biggest expansion of prison places in a century" with its building programme, and has "created short-term capacity by doubling up cells where it is safe to do so and delaying non-urgent maintenance work".

2.1.3 Metropolitan Police

12 months after Sir Mark Rowley embarked on a mission to re-boot the Metropolitan Police following a wave of scandals, the force has revealed that it has suspended or placed work restrictions on a thousand of its officers. More than 200 are currently suspended and 860 are on 'restricted duties' while criminal or misconduct allegations are investigated. In addition, there has been a 66% increase in dismissals for gross misconduct – with 100 in the last year, and 300 more hearings in the pipeline. Scotland Yard says that before long, 60 cases of alleged misconduct or incompetence will be heard each month with some Crown Court trials due to take place as well, including those of two Met officers charged with rape. The groundwork for this mass investigation of Met staff began shortly after the Commissioner took office last September, when he suggested that there were 'hundreds' of officers who shouldn't be there. He then transferred 150 detectives into a new anti-police corruption and abuse unit tasked with examining internal wrongdoing. It was a statement of intent and an extraordinary investment of personnel and resources, particularly given how stretched public-facing parts of the force are. Numerically, it provides firm evidence of Rowley's commitment to change, but it also highlights a wider problem for the country's biggest police force. It will take at least two years to get through all the cases, during which time the publicity will lead to more damaging headlines and potentially a further erosion of trust and confidence in the force. Critically, the upheaval in the Met and the flow of bad headlines are affecting efforts to recruit and retain officers. The more energy the Met puts into rooting out rogue cops, the more stories become public and the less attractive the force looks – to the public and those considering a career there. It is in fact a dangerous spiral. Change is happening quickly in the Metropolitan Police. But unless the misconduct and CJ systems move faster, the force is going to be stuck with officers who shouldn't be there and negative headlines for years to come.

2.2 Prisons

2.2.1 Prison conditions

2.2.1.1 The Irish High Court declined to extradite to Scotland a defendant with neurodevelopmental disorders and suffering from mental health conditions, due to concern over the state of Scottish jails. The Irish court heard that Barlinnie prison in Glasgow is at 132% capacity and prisoners there are confined to their cells for 22 hours a day with less than three square metres of floor space per prisoner.

2.2.1.2 At a hearing of an Albanian man in Germany, arrested on an international arrest warrant issued by the UK on suspicion of trafficking 5kg of cocaine and laundering £330,000, the court demanded guarantees from the UK that its prison standards were in accordance with the ECHR, and in particular asked which prison he would be held in. A response was sent on the final day of the court-imposed deadline, which did not include any guarantees but stated that the UK was planning to build 20,000 new prison places to ease overcrowding, seemingly confirming the concerns over current crowding levels. The response did not specify a prison but said the man would probably be detained initially in the London area. The defence lawyer told the court that Wandsworth, one of London's major remand jails, is at 160% capacity. The court then asked the UK to provide specific guarantees and information for Wandsworth, setting a new deadline for a response but when no further reply came in time, the court decided that the extradition application was "currently inadmissible", and freed the man. A Law Society council member called the court's decision a "severe rebuke" and said: "This is an embarrassment for the UK. There have been similar court decisions before under the European Arrest Warrant framework, but in relation to member states with whose records on prisons and human rights we would not wish to compare ourselves." Campaigns director of the Howard League for Penal Reform said: "Our prison conditions are not only unable to provide a healthy and safe environment for the people in them but are now internationally recognised as unfit for purpose. That British prisons are notorious for posing a human rights risk should heap shame on the government, who continue to cram more and more people into them, with no thought for safety, wellbeing or rehabilitation."

2.2.1.3 A generation after 'slopping out' was meant to have ended, there are still 5 prisons where men are locked overnight in cells without toilets: Isle of Wight (476 cells lack toilets); Coldingley (360 cells); Long Lartin (307); Grendon (227); and Bristol (99) – a total of 1,469. The prisons operate "controlled unlock" systems where men can request access via call bells. This allows their doors to be opened remotely for a limited time, so they can visit toilets on their landings and return to their cells. However, there have been reports of long waits to be unlocked, and of men resorting to using buckets. Long Lartin issues buckets to men in cells without toilets. The IMB chair said: "The cells on the four wings that lack running water and sanitation accommodate some elderly and infirm prisoners. The use of buckets is problematic when the men are locked up for extended periods due to regime restrictions. There is not even a sink to wash their hands after using their bucket. They are required to 'slop out' into an open sluice with no splash-guard or privacy for men emptying their pots. The board view this practice as inhumane." Slopping out was officially brought to an end in 1996. Most prison cells now have a toilet installed, except in some open prisons and women's prisons where cell doors are left unlocked overnight, allowing use of toilets on landings at any time.

2.2.1.4 Views of Chief Inspector of Prisons in article: 1 in 10 prisons are barely fit for purpose and should be shut down if alternative buildings can be found. About 14 Victorian jails were so poorly designed, overcrowded and ill-equipped that they could not provide proper accommodation for inmates. As a result, thousands of prisoners were being held in vermin-infested buildings with too few staff and inadequate facilities for retraining and education. These comments come amid intense scrutiny of the 135 adult and youth prisons after the high-profile alleged escape of a 21-year-old former soldier awaiting trial on terror charges. HMP Wandsworth was given the lowest score ("of serious concern") in HMPPS performance ratings this summer. The jail is overrun with rats and suffers from a severe staff shortage and a high number of untrained or ill workers. In his

first interview since being reappointed, Taylor said the conditions in Wandsworth were particularly poor, but were part of a pattern in inner-city jails built more than 100 years ago. “Wandsworth was built for around 1,000 prisoners and I think has 600 over; Pentonville was built for around 450 and I think there are about 1,200 prisoners in that jail”. He said the constant demand for cells at Wandsworth meant that on his last visit a burnt-out cell could not be repaired before a new prisoner was moved in. He is particularly concerned by the lack of training and education, exacerbated by too few prison officers on the landing floor, which in turn leads to inmates spending longer in their cells. This year, reports found that 36 out of 37 men’s prisons inspected in 2022-23 were not good enough for “purposeful activity” eg education, employment and activity that keeps prisoners meaningfully occupied. “If they are not in the habit of getting up and going to work or college every morning, then it will come as no surprise if they commit more crime when they come out”. Solving the overcrowding crisis was vital to give staff the time to work with prisoners. “Sentencing is a matter for the courts and ministers decide policy but I think there should be a bigger conversation about what we want from prisons. “What is our expectation of what we are going to get? Because, apart from a handful, the prisoners we lock up are coming out at some stage.”

2.2.2 Prison inspections

The Chief Inspector of Prisons issued an urgent notification for improvement within days of finishing an inspection of HMP Bedford, the fifth establishment to receive one in the past 12 months. This requires the Secretary of State to respond in public within 28 days with plans to improve a prison where there are significant concerns over the treatment and conditions of prisoners. The very concerning issues included:

- Very high levels of violence particularly against staff
- The third highest rate of recorded self-harm in the adult male estate. Care for prisoners at risk of self-harm was undermined by an inadequate MH service and weak case management
- New prisoners were placed into dirty, graffitied cells and given a very limited induction
- The use of force remained very high, often excessive, as well as unprofessional behaviour
- Three-quarters of the prisoners lived in overcrowded conditions. Most spent more than 22 hours a day locked in their cells. The wings were dirty and there was a widespread infestation of rats and cockroaches. Some cells had broken windows and black mould on the walls
- The segregation unit was squalid, staff were forced to use sandbags and wear wellington boots due to overflowing sewage pipes after heavy rain
- Prisoners expressed real frustration at their inability to get anything done eg accessing their property, applying for a job or adding their families’ numbers to their phone. Staff prisoner relationships were transactional, key work was rare and the application and complaints systems were in disarray
- The escape of a prisoner who was meant to be subject to constant supervision in July 2022 highlighted substantial weaknesses in security. The local security strategy remained incomplete after it had been deleted by a previous manager. Mandatory drug testing was not taking place
- Racism incidents with oversight of fair treatment and inclusion had declined
- Education, training and work were regularly cancelled because of a lack of operational staff and teachers. Many were unemployed and only about half attended their education classes.

The fact that this is the fifth urgent notification that the Chief Inspector has issued within the last 12 months combined with the fact that Bedford prison itself was previously the subject of the protocol in September 2018 both point to the fact that the prison system is under enormous pressure and failing in many of its principal responsibilities. The frequent changes in prisons minister (Edward Argar is the 9th since January 2018 and the 5th since September 2021) has clearly made it even more difficult for the Government to get a grip on the ongoing problems in our prison system.

2.2.3 Recruitment of prison staff

Organised crime groups are sending associates to train as prison officers with the “sole purpose” of smuggling drugs and phones into jail, the POA has warned. They blamed low pay and said online interviews were also contributing to the prison service “hiring the wrong people”. Drugs remain a

huge problem in prisons despite an increase in testing facilities. “Organised crime groups realise that there’s a lot of money to be made by smuggling contraband into prisons. People can be recruited as a prison officer and go in with the sole purpose of bringing contraband in, to make a lot of money. They can do it by themselves or for an organised crime group.” The age limit to become a prison officer has been reduced substantially over the past 40 years. In 1987, it was lowered from 25 to 20, and then to 18 in 1999 to boost recruitment in London and the SE in particular. The starting salary increased recently to £30,702 (£35,931 in inner London). Staff shortages across the prison estate had prompted a cut in the training time from 10 to 7 weeks. The MoJ disputes this, saying that the 10-week course now included elements of “home learning”. The chief inspector of prisons said it would be reasonable to assume younger officers could be more susceptible to corruption. “There are always two types of prison corruption. You’ve got the very sophisticated type where someone linked with organised crime almost goes in as a sort of sleeper. But most corruption isn’t that – it is that someone naive gets into a relationship, sexual or otherwise, with a prisoner which is inappropriate. And of course, once you’ve been pulled in, it’s very hard to stop.” The POA wants an end to online interviews and a return to in-person panels, including governors, an increase in the minimum age of prison officers to 21 and better gate security to stop contraband arriving with corrupt officers. The MoJ stated: “We have bolstered the counter-corruption unit that works round the clock to clamp down on the minority who undermine our exemplary service with their dangerous behaviour and we will not hesitate to punish those who break the rules. On top of this, we have invested £100m in prison security such as enhanced gate security with X-ray body scanners, which has driven up the finds of drugs, weapons and other contraband.”

2.2.4 Prison Overcrowding

2.2.4.1 The Justice Secretary was forced to make an emergency announcement in October introducing new measures to tackle the ever-growing prison population:

- Releasing some “lower level offenders” on licence 18 days before their automatic release
- Legislating for “a presumption that custodial sentences of <12 months will be suspended”
- Extending the Early Removal Scheme, so the government has the power to remove foreign criminals up to 18 mths from 12 mths before they are due to be released

Over the last year, the population has surged relentlessly hitting 88,225 in October. Much of the long-term increase is attributable to the Government’s own policies of sending people to prison for longer periods of time, in addition to imposing new restrictions on release under parole. A number of other actions are being considered including extending the discount off a custodial sentence for pleading guilty early in proceedings; reviewing the use of prison recall, especially when someone has not committed a new offence; and looking at options to reduce the current 10-year licence period for IPPs

2.2.4.2 The MoJ has been accused of putting the public at risk after quietly transferring locked up offenders to open prisons in a move to ease a critical overcrowding crisis. The POA said officials launched a new scheme to swap dozens of prisoners to Category D prisons at the end of September without conducting pre-transfer assessments that would decide if it was safe to send them. A leaked document shows that open prison staff were given days to prepare for the transfer and prisoners had no choice about which open prison they were sent to. The scheme, which was not announced publicly, was dropped by the MoJ on 9 October, officials said, and affected fewer than 50 prisoners, who were later assessed. The MoJ said it was not publicised, as it is an “operational measure to free up space in the jails and it was dropped because of other measures being brought in to ease overcrowding”.

2.2.4.3 What is the role of government? (extract from article by David Mitchell October 2023)

So the prisons are full to bursting – how do we stop them bursting? The answer is obvious: go back in time and invest more in prisons 10 years ago. If that should prove temporarily impossible, there’s another answer: let some prisoners out. Also, stop putting so many in. These are the solutions the justice secretary has leapt to. Some prisoners are going to be released early, and custodial sentences of <12 months are to be scrapped. The latter could be a positive development as there’s

strong evidence that short prison sentences do more harm than good, with minor criminals who get locked up statistically more likely to reoffend than those sent off to wash a wall or weed a central reservation. Still, there's something unsatisfactory about reaching this grown-up and merciful conclusion under emergency pressure brought on by rank logistical incompetence. No one wants to have a proper discussion about when and whether prison works. Current political rhetoric is too vengeful. People are angry and broke so the politicians are keen to provide alternative objects of blame to themselves and criminals fit the bill. The current home secretary is very comfortable with this but Keir Starmer goes along with it too, promising longer sentences if he were PM. He's running scared of accusations from the Tory press that he's "soft on crime" or "an enemy of business" or "a member of the Labour party", but the result is a failure on both sides of politics to discuss prisons properly. This is an issue of competence. The public's requirements are simple: 1) enough space in prison for everyone who's sent there; 2) conditions of incarceration that don't brutalise the inmates; and 3) a sense that people are locked up when that is the best thing to do and not when it isn't. We want protection from the violent but we don't want a hapless petty thief to be sentenced to a ruined life, inhumane conditions and a starter course in drug dealing. This seems too nuanced for the current level of political debate. Or is it just that public money invested in the unshowy necessity of maintaining prison infrastructure is not money that is advancing any politician or party's fortunes? It's wasted on keeping civilisation ticking over. They get nothing for it. And using our money for their purposes is the true role of modern government

2.2.4.4 Plans for 20,000 additional prison places by the mid 2020s are not expected to be completed until 2030 due to planning delays. The £4bn programme has been hit by further problems this summer which means the new cells will not be available to head off the current capacity crisis. The prison population is close to the "usable operational capacity" and up by 7% in a year. The situation is exacerbated by a record backlog in the courts leading to a 50-year high in the number of people on remand. Two prisons have opened so far and one is under construction but it has emerged that three of the new super prisons will not open before 2027 at the earliest because of planning appeals. The MoJ said that problems had been compounded by badgers which cannot be moved from their setts between July and November. Only 3,400 of the additional places have been delivered so far and by the end of May 2025, the total will have risen to about 8,200. The Tory chair of the justice select committee, said that this raises questions about the lack of "joined up government" when it comes to prison numbers: "There must be a rethink so that the Home Office stops calling for longer sentences and the MoJ anticipates these problems. The government cannot keep trying to squeeze a quart into a pint pot". The Prison Reform Trust CEO said "The Prison Service will not be able to build its way out of the capacity crisis it is facing. Ministers now have no choice – however politically unpalatable they must now bring forward proposals to urgently reduce demand on the system".

2.2.5 Prison Education

Recently published official HMPS statistics show that the educational needs of people being sent to prison are, if anything, more acute than ever. People who arrive in prison complete an initial assessment before they participate in education. In 2022-23, the results of most of these (68% for Maths) and 65% (English) were at Entry Level 3 or below (ie roughly the level you would expect of somebody leaving primary school). Around one in six (17%), nearly 10,000 people, were at Entry Level 1 for English, the literacy level normally expected of someone aged 5-7. Good news is that the number of people participating in prison education has increased significantly meaning that they are nearly back to pre-pandemic levels. More are also making measurable progress although a third of learners who took part in a functional skills course made no recorded progress at all. Given the severe challenges facing the prison system, any increase in the number of people accessing education, and making measurable progress, is good news but challenges remain and the longer-term picture is of declining numbers taking part in education. Participation in accredited programmes has also decreased over time, largely due to changes in how they are designed and who they are delivered by, with more programmes delivered by the NHS and therefore not captured in statistics. It is clear that the educational needs of people being sent to prison are, if anything, more acute than ever. Overall, the picture is of improvement since last year, as prisons continue

to recover from the impact of Covid. But longer term, far fewer people are participating in education than they were in 2014-15. This reflects both broader challenges in the prison system and the limited funding available for prison education, with the current Prison Education Framework contracts experiencing real terms cuts over their lifetime. With the tendering process for replacement contracts (from April 2025) now underway, a key challenge will be ensuring that more people can participate in education and that those who do make more progress. There should also be a broader range of educational opportunities on offer, to enable people in prison to pursue their interests and to progress. With limited funding available, and the prison population projected to continue to grow, achieving this will be a real challenge for the new providers and for the MoJ, who must take responsibility for ensuring that the new contracts deliver the improvements that are needed. But it is a challenge that will need to be met if people are going to leave prison with the skills and qualifications they need to thrive.

2.3 Probation

2.3.1 Probation effectiveness

HMI Probation research, analysing thousands of probation cases, has found that higher-quality probation supervision leads to significantly better sentence completion rates and reduced reoffending. In those cases where inspectors judged that the delivery both engaged the person on probation and supported their desistance, the sentence completion rate was 24% higher and the reoffending rate was 14% lower compared to those where both judgements were negative. For those who had reoffended, the research team also found significant reductions in the frequency of reoffending when probation delivery was of a high-quality nature; reductions rather than total cessation can be more realistic for those with the most entrenched offending histories and behaviours. This provides initial evidence that probation supervision done well makes a significant positive difference. Clearly high quality probation work needs resources – the primary one of which is PO time to build a trusting relationship. This resource has clearly been missing from the service over recent years as area probation inspection results make only too clear.

2.3.2 HMI Probation Annual Report

The outgoing Chief Inspector of Probation is calling for an independent review of whether the Probation Service should return to local control, two years on from unification into a national service. He said: “The Probation Service is struggling. It’s more than two years since the unification of probation back into the public sector as a single national service. I said at the time that this was unlikely to be the silver bullet many were hoping for. Sadly, this has now proved to be the reality. Yes, there are staffing issues, yes there was a considerable impact from Covid-19, but as this annual report shows we have seen little improvement in our inspections over the past 2 years. The supervision of people on probation isn’t at the level it should be. Probation is, and always has been, a locally delivered service, working with local partners like the police, children’s services, and NHS trusts. To make the most of those partnerships, local probation leaders need freedom and flexibility to commit resources and staff to match circumstances and to be able to speak publicly to both defend and advocate for their services. Currently, they often feel heavily constrained and that they play second fiddle to the priorities of the prison service to which they are tied in the new One HMPPS structure. While I recognise that this would represent another reorganisation of the service and any shift in this direction would have to be with the explicit agreement of local managers and staff themselves, I think the time has come for an independent review of whether probation should move back to a more local form of governance and control.” Key points in the report included:

- chronic staffing shortages at every grade leading to unmanageable workloads/caseloads
- although the numbers staff (but not POs) have increased over the last 12 months, many are new and inexperienced so this has not yet impacted on the quality of service delivery
- poor quality of management oversight of frontline practitioners (only 28% acceptable cases)
- major gaps in the services provided to meet underlying needs which may have driven their offending as well as ongoing delays in ensuring that court requirements to complete unpaid work or offending behaviour programmes are delivered. The re-unified Probation Service is currently less successful at meeting every kind of need than the split Probation Service

- the main concern is public protection, which has been consistently weak over recent years and has become worse since unification. The report concludes that POs have too many cases & too little time to focus on this key area of work, putting the public potentially at risk

2.3.3 Impact of moves on probation to free up prison places

The pressures on probation are only going to mount after the twin set of announcements made on immediate emergency measures to release some prisoners up to 18 days early; and the government legislating for a presumption that custodial sentences of <12 months in prison will be suspended. These prompted panic in the already overstretched probation service, which last year was managing 240,431 cases. The justice secretary told MPs that the government was already injecting £155m pa to recruit probation staff to bring down caseloads and deliver better supervision of offenders in the community. But in March 2023 there were actually 76 fewer probation officers than a year previously. There are particular shortages in London and the south, where housing costs are greatest. People are being promoted to an SPO 6-9 months after they qualify, and are delivering training on things like parole, having never written a parole report in their life. Sickness levels are high because of stress. The government reforms will also affect the judiciary, particularly magistrates, who impose more short sentences than judges. The principle is good, said the chair of the Magistrates Association: "Magistrates don't take any pleasure in sending people to custody," but he queried what the MoJ was doing to increase unpaid work placements and other programmes to tackle problems such as drug and alcohol abuse. Less than half of all unpaid work orders are completed within 12 months in most regions. The availability and quality of treatment programmes imposed as part of many community sentences is also patchy with a "postcode lottery" of which schemes are available in each area. Although probation has been advocating for years to put an end to short sentences for non-public order offences, it is believed that this announcement was not rooted in ideology but out of necessity with the government's hand being forced, and has been described as "a sticking plaster over this gaping wound."

2.4 Youth Justice

2.4.1 Youth custody struggles to recover from pandemic

A report painted a bleak picture of youth custody. While the number of children in custody continued to fall in 2022-23, levels of violence and self-harm rose by just over a quarter and a third respectively. *Children in custody 2022-23* analysed survey data from inspections of five YOIs and one STC and in addition to the levels of violence, also found that children continued to spend far too long alone in their cells, with 28% of those with <2 hours unlocked each day doing absolutely nothing with their time in custody. Less than half reported feeling cared for by staff, and nearly a third did not have a single member of staff they trusted to help them if they had a problem. Children in custody are much more likely to have been in local authority care (66%) and have health problems. 65% had been sentenced for a violence against the person and were more likely to be there on remand than any other legal basis. They continued to be placed too far from their homes, separated from external support. The rate of self-harm continued to increase by 37% (250 incidents per 100 children). High levels of violence and a reliance on keeping children apart to reduce conflict has prevented access to education, health care and offending behaviour interventions for many.

2.4.2 Joint thematic inspection of work with children subject to remand

Its headline conclusion was that some children could be better cared for in the community rather than youth detention. At any given time, there are 200/250 children on remand. Some are extremely vulnerable and a minority have been charged with very serious offences that resulted in life-changing injuries or loss of life. The inspection found:

- a quarter were released on bail before being sentenced, and it was judged that more could have been safely managed in the community
- nearly ½ had no previous convictions and some of the remands were long (>a year)
- in many cases children made no comment at the police interview but this was not always to the child's benefit as admitting the offence at that stage might have made bail more likely
- in just under ¾ of cases the YJS did not offer a bail programme at the first remand hearing.

In 2021/22, 1,200 children were remanded in youth detention accommodation by the courts. These are some of the most vulnerable in the country, and many have experienced significant trauma and exploitation in their lives. Remanded children make up an increasing proportion of the child custodial population. Those from BAME backgrounds are over-represented in the remand population, and this is increasing. A substantial minority had a significant history of escalating social care involvement, including receiving support through child protection planning, or they were already in care at the time of the initial remand (33%).

3. Sentencing

3.1 New sentencing power

A new power for judges to order offenders to attend sentencing hearings has been announced. Offenders who refuse could be forced into the dock by prison staff or receive an extra 2 years in prison. Custody officers will have the power to use reasonable force to make criminals appear in the dock or via video link. This new penalty will apply in cases where the maximum sentence is life imprisonment, including serious sexual or violent crimes like murder, rape, and grievous bodily harm with intent. The change will mean victims can look offenders in the eye and tell them of the devastating consequences of their crime as they read out their impact statement, rather than addressing an empty dock.

3.2 Public opinion and understanding of sentencing

The Justice Committee's report 'Public opinion and understanding of sentencing' concluded the persistence of the view among the public that the system is not severe enough, represents a "significant long-term public policy challenge that needs to be addressed". It recommended that the Government should seek to actively engage the public on sentencing policy but should do so in a structured and methodologically rigorous fashion involving deliberative engagement exercises as part of the policy development process. Policy proposals on sentencing should be subject to independent evaluation, so that the resourcing implications are evaluated before they are enacted. It called on the Government to establish an independent advisory panel on sentencing to consider proposed changes to sentencing policy and to provide advice to ministers. In terms of public understanding, a significant portion do not know which bodies are responsible for deciding sentencing policy. The Committee expressed concern that this can give rise to an accountability gap, whereby the public is unclear as to the Government's responsibility in relation to sentencing. It is widely recognised that there has been a perceptible hardening of public opinion towards serious crime since the 1990s. Successive governments have increased the maximum sentences for a number of serious offences, often in response to public campaigns arising from individual cases. The poll indicated that there is significant public support for increasing the custodial sentences for murder, rape and domestic burglary eg 18% said the starting point for the most serious rape cases should be a whole life order (currently 15 yrs), and 33% said the starting point for the most serious cases of domestic burglary should be 10 years (currently 3). A clear finding was that one of the most important purposes of sentencing should be to provide justice for the victim. The Committee recommends that the Government review the statutory purposes of sentencing to consider whether greater emphasis should be placed on achieving justice for the victims of crime and their families. Their overall conclusion is that there is a need for national debate on sentencing which is currently stuck in a dysfunctional and reactive cycle, and that all policymakers and opinion-shapers should play a role in shaping a more constructive debate to seek greater consensus on the issues.

4. Other issues

4.1 Accommodation

The Offender Accommodation Pilot was commissioned as part of the government's wider Rough Sleeping Strategy funded by the Department for Levelling Up, Housing and Communities and aimed to test the benefits of providing accommodation and wrap around support for up to 2 years. This was conducted in three resettlement prisons and enrolled 324 prison leavers in 2019/20, concluding in July 2022. The evaluation indicated that the pilot was perceived to have achieved its key aims of preventing homelessness and reducing reoffending for some participating prison

leavers, with benefits including improvements to physical health and mental wellbeing, increased engagement with support services, better relationships with others, and a readiness to seek employment. However, for prison leavers with crime and substance misuse entrenched in their lifestyles, provider staff reported how it was challenging to break the cycle of reoffending. Considerations to support the longer-term roll out of accommodation programmes emerged from the evaluation including ensuring a focus on those who will benefit most, increasing the flexibility of funding arrangements, and reassessing how prison leavers' progress is measured.

4.2 CJS Public Appointments

4.2.1 CPS

Stephen Parkinson has been appointed as the next DPP. Aged 66, he began his legal career as a junior CPS prosecutor, progressing to become head of its international co-operation unit. As private secretary he had the challenging job of speaking to reporters. Later, he became deputy head of the department. 20 years ago, he defected to the private sector, joining the law firm Kingsley Napley from which he retired recently as senior partner. Despite his age, the attorney general can see the advantage of appointing a safe pair of hands who understands the system and has shown that he can thrive and prosper as a defence lawyer too. It is a challenging job but there is no one better qualified to take it on.

4.2.2 HM Chief Inspector of Probation

Sue McAllister was appointed as the interim Chief Inspector from 1 October 2023. She was Prisons and Probation Ombudsman from 2018-2022. Prior to that she held senior policy roles including Head of Public Sector Bids Unit at NOMS, and operational management roles in HM Prison Service as Prison Governor, Head of Security Group and Area Manager for the West Midlands. The substantive preferred candidate for this role was announced in December 2023 as Martin Jones, subject to a pre-appointment hearing by the Justice Select Committee. He has been the CEO of the Parole Board since 2015. Prior to that he served as Deputy Director for Sentencing Policy from 2012-2015 and as Head of Crime for HM Courts and Tribunals Service from 2008-2011.

4.2.3 Interim Victims' Commissioner

Baroness Newlove has been reappointed as Interim Victims Commissioner for 1-year whilst a permanent recruitment campaign is launched to reflect new responsibilities of the role following the Victims and Prisoners bill. She will play a vital role in scrutinising the Bill as it progresses through Parliament, ensuring it serves its purpose to improve victims' experiences of the CJS. She brings a wealth of experience having previously served as Victims' Commissioner between 2013-19. The Bill which will shortly return to the House of Commons enshrines the principles of the Victims' Code in law, meaning that where appropriate, victims will have the right to challenge decisions which directly impact them; receive information to help them understand the CJ process; have access to vital support services; and have the opportunity to make their views heard.

4.2.4 Government rape adviser

A government rape adviser has said she is leaving the role due to a "lack of will to continue to change" in the CJS, citing myths about the crime perpetuated at the highest levels of the civil service. Emily Hunt said she was leaving the UK to return to America because she does not feel safe. She became an independent adviser to the government's rape review in 2021 and was part of the successful implementation of an around-the-clock sexual abuse helpline and has been a champion of an Operation to expose failures in the CJS and pushes a suspect-focused approach to catching rapists. She has said she does not feel confident in reporting a crime to police after her own five-year legal battle with the CPS. "I don't really feel like there is a purpose to my staying. I go to meetings and say the things over and over and nothing happens. Following the review, it seems there is a lack of will to continue to change. I would go to work and hear about how things were improving for victims of crime when I would experience the opposite. It was so dispiriting." She said that within the civil service she had encountered people who had myths about rape such as "Maybe her skirt was too short, maybe she was drinking".

4.3 Domestic Violence

Domestic abusers leaving prison will have to wear electronic monitoring tags in a move that the government says will offer better protection to victims. Under a pilot scheme, expected to be rolled out next year, any offender who poses a threat to a former partner or their children will be banned from going within a certain distance of their home and/or subject to a curfew. The conditions will be enforced on up to 500 prison leavers, who will wear a GPS or curfew tag. Offenders who breach licence conditions face being returned to prison. The government also said that more than 2,700 victims had been protected from further harassment from their imprisoned abusers thanks to a Prison Service scheme relaunched last summer. The unwanted prisoner contact service prevents offenders from dialling a victim's number from prison phones or sending out threatening letters.

4.4 IPPs

4.4.1 Reform

The Justice Secretary has announced a partial reform to IPP sentences in proposing changes to the indefinite licence period which all IPPs are subjected to, by introducing amendments to the Victims and Prisoners bill which will reduce the qualifying period for an IPP licence review from 10 to 3 years when they will be automatically referred to the Parole Board for a licence. This is one of the key injustices of the IPP sentence – that it can be ever-lasting and even people released for very many years can be recalled to prison either for committing any offence, no matter how minor, or because their supervising probation officer considers an aspect of their behaviour to be “risky”. It is anticipated that the Bill will become law in the next few months and that its provisions will come into law shortly afterwards. The changes will be applied retrospectively, meaning that around 1,800 offenders who have been on licence for >5 years and not been recalled will have their licences terminated by March 2025. However, the Government has rejected the Justice Committee's recommendation that everyone on an IPP should be re-sentenced to a determinate sentence which is just and proportionate to their offence. Penal reform organisations will continue to lobby for these changes as the Bill makes its way through parliament. The UN Human Rights Council has demanded an urgent review of all IPPs: “For many these sentences have become cruel, inhuman and degrading. They have been acknowledged by successive UK governments and even described as indefensible by a justice minister – yet they persist.”

4.4.2 Self-inflicted deaths of IPP prisoners

The PPO published a traumatic learning lessons bulletin prompted by the worrying increase in self-inflicted deaths of IPPs in 2022 and its continuation in 2023. 2022 saw the highest number of self-inflicted IPP deaths since the sentence was introduced. The PPO is clear that more needs to be done to ensure these high levels do not continue. He states that an IPP sentence should be considered as a potential risk factor for suicide and self-harm because they struggle with their uncertain status leading to feelings of hopelessness and frustration. This can cause a lack of engagement with the parole process and sentence planning and create a lack of trust in the system. It is clear there are several risk triggers associated with IPP prisoners, including parole hearings, recall, prison transfers, change in security categorisation and upcoming release. From 2005-2022, there were 78 IPP self-inflicted deaths (6% of all such deaths).

4.4.3 Mental Health

A newly published systematic review looks at the thorny issue of delays in transferring patients from prisons to secure psychiatric hospitals. It starts by saying that transfer to a psychiatric hospital of prisoners who need inpatient treatment for a mental disorder is an important part of prison healthcare. Delays were identified by the 2009 Bradley Report into people with mental health problems or learning disabilities in the CJS. There has been no subsequent systematic review of progress nor a corresponding appraisal of transfer arrangements in other parts of the world until this review. The researchers found that:

- Diagnoses did not appear to directly influence the level of security required. The most common (62%) primary diagnosis was of psychosis
- Transfer times ranged from 14 days to more than 9 months.

- There was an overall pattern of longer delays as the level of hospital security increased, likely related to both a shortage of secure beds & disagreements about the level of security required
- The researchers identify three main reasons for delayed transfers from hospitals to prisons:
- Bed availability not keeping pace with need
 - Regional variation
 - “Suboptimal” treatment in prison. It is broadly accepted that prisons do not provide the optimal therapeutic environment for people with mental disorder, with many practitioners believing that more could be done within the prison setting to optimise initial management. Prison MH teams have identified recruitment problems, growing caseloads of complex patients and poor implementation of the in-reach model as impediments to delivery of quality care. This is reflected in the emergent trend of ‘gate sectioning’ (detention of prisoners immediately on leaving prison after completing their sentence). Critics say this demonstrates that beds can be found when necessary and that making people wait until their release date before they are taken for specialist care demonstrates that mental health problems are taken less seriously than physical problems in prison.

4.5 Prisoners families

With the prison population now at an all time-high, new research shows how prisoners’ families and loved-ones are facing their own hidden sentence of financial hardship and emotional strain. Survey results published by PACT show that many families, already on low incomes and affected by the rising cost of living, are being hit by additional costs and are struggling to cover the basics for themselves and their children. They also find that families suffer from a widespread social stigma associated with imprisonment and that their mental and physical health suffer as a result. Prisoners’ families are often hit by a ‘double whammy’ of costs – the loss of a partner’s income, coupled with the extra costs associated with staying in touch with and supporting their loved-one through a sentence. Family members also reported that their health suffers as they struggle to come to terms with the new reality. The stigma associated with imprisonment can often result in their leading a ‘double life’ as they seek to hide or avoid talking about what has happened to their loved-one. 83% said that their mental health was worse; 71% that their physical health was worse; and 70% that they had lost relationships with friends and family members because of imprisonment. The CEO of Pact said: “This research lays bare the devastating impact that the imprisonment of a loved-one has on hundreds of thousands of families and children. Extra costs and a loss of household income are heaping extra pressure on people already affected by the cost-of-living crisis. But the impact stretches well beyond financial problems, as family members struggle with the social stigma associated with imprisonment and their physical and mental health deteriorate. Maintaining family ties plays a crucial role in reducing reoffending. If we are serious about cutting crime and delivering safer communities, we must support prisoners to stay in touch with family. By working together, the prison service and a range of partners have made huge progress in recent years, but this research shows that there is still much that could be done.”